

# EXHIBIT A

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

MSC.SOFTWARE CORPORATION,

Plaintiff,

HONORABLE AVERN COHN  
Case No. 07-12807

vs.

ALTAIR ENGINEERING, INC., et al,

Defendants.  
-----/

JURY TRIAL - VOLUME 26  
(Jury Instructions)

Tuesday, April 8, 2014

APPEARANCES:

James F. Hermon  
Patrick F. Hickey  
Timothy Kuhn  
Kelly R. Houk  
Dykema Gossett  
400 Renaissance Center  
Detroit, MI 48243  
(313) 568-6810  
On behalf of Plaintiff

Michael M. Jacob  
Christian J. Garascia  
Young Basile Hanlon & MacFarlane  
3001 W. Big Beaver Rd, #624  
Troy, MI 48084  
(248) 649-3333  
On behalf of Defendant Altair

Anthony J. Rusciano  
Plunkett & Cooney  
38505 Woodward Ave., # 2000  
Bloomfield Hills, MI 48304  
(248) 901-4000  
On behalf of Plaintiff

C. Thomas Ludden  
Phillip E. Seltzer  
Samantha K. Heraud  
Lipson, Neilson, Cole, Seltzer & Garin  
3910 Telegraph Rd, #200  
Bloomfield Hills, MI 48302  
On behalf of Defendants Hoffmann,  
Rampalli and Klinger

Transcript produced using machine shorthand and CAT software.

**JANICE COLEMAN, CSR 1095, RPR  
OFFICIAL FEDERAL COURT REPORTER  
(313) 964-5066**

1           The reasonable royalty must be for the individually misappropriated Trade  
2       Secrets and not based on the entire software product or product lines. However,  
3       Plaintiff may recover damages based upon any entire product rather than the  
4       individual Trade Secrets where the Plaintiff shows that the individual Trade Secrets  
5       constitute the basis for customers' demand or are such importance that the Trade  
6       Secrets substantially create the value of the entire product.

7           In calculating what a fair licensing price would have been had the parties  
8       agreed, you may consider a number of factors, including the resulting and foreseeable  
9       changes to the parties' competitive position that would be caused by such a license;  
10      the price past purchasers or licensees may have paid the; total value of the Trade  
11      Secrets taking into account the development costs incurred by MSC in developing the  
12      Trade Secrets actually misappropriated and the importance of the Trade Secrets  
13      actually misappropriated; the nature and extent and use Altair intended to the Trade  
14      Secrets and any other unique factors which may effect the parties' agreement; the  
15      head start that Altair enjoyed in its development of MotionSolve by misappropriating  
16      Trade Secrets.

17           The royalty arrived at must be reasonable under all the circumstances  
18      presented and take into account events and facts post-dating the hypothetical  
19      negotiation. MSC has the burden to prove the amount of any such damages.

20           If you find that Rampalli or Hoffmann disclosed confidential information in  
21      violation of your -- of their contracts, you may use a royalty method in determining the  
22      amount of damages, if any, to which MSC is entitled. If you choose to do so, you  
23      should use the same principles to determine the amount of royalty damages, if any, to  
24      which MSC is entitled.

25           Should you find an award of a royalty to be appropriate for Trade Secret

1 misappropriation or violation of confidentiality agreements, you will enter a single  
2 amount as a reasonable royalty on those claims. Then assign a percentage to each  
3 party whom you have found to be liable for a claim that entitles MSC to a reasonable  
4 royalty. That percentage is the portion of the royalty award that you find a particular  
5 Defendant was liable for.

6 I'm now going to tell you about the law pertaining to MSC's last claim, tortious  
7 interference with contract by Altair. MSC claims that Altair tortiously interfered with  
8 Klinger and Rampalli's Employment Confidentiality and Inventions Agreement with  
9 MSC by causing Klinger and Rampalli to solicit former MSC employees to work for  
10 Altair, in violation of Paragraph 12 of their contracts with MSC.

11 To establish this claim, MSC must prove each of the following:

12 MSC had a contract with Klinger or Rampalli at the time of the claimed  
13 interference; Altair knew of the contract at the time; Altair intentionally interfered with  
14 the contract; Altair improperly interfered with the contract; Altair's conduct caused and  
15 induced Klinger or Rampalli to breach its contract by soliciting an MSC employee;  
16 MSC was damaged as a result of Altair's conduct.

17 When I say MSC must prove that Altair intentionally intended -- interfered with  
18 Klinger or Rampalli's contract, I mean that either Altair's primary, but necessary -- not  
19 necessary sole purpose was to cause Klinger or Rampalli to breach their contract; or  
20 Altair acted knowingly that the contract was certain or substantially certain, that the  
21 conduct was certain or substantially certain to cause Klinger or Rampalli to breach  
22 their contract.

23 Improper interference is conduct that is fraudulent, not lawful, not ethical  
24 or not justified under any circumstance. If Altair's contract -- conduct was lawful, it is  
25 still improper if it was done without justification and for the purpose of interfering with